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JAN 27 2005

In re Application of
Baldomero M. Olivera et al
Application No. 09/469,496
Filed: December 22, 1999
For: CONOTOXINS I

: **OFFICE OF PETITIONS**
: :
: DECISION ON PETITION
: :
: :

This is in response to the petition under 37 CFR 1.183, filed November 18, 2004, to waive 37 CFR 1.175(b)(1) for a supplemental oath or declaration executed by less than all the inventors.

The petition is **dismissed as moot**.

When an inventor who executed the original declaration is refusing or cannot be found to execute a supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. If there is no joint inventor or inventors, then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

The record discloses that the Examiner held the originally executed declaration defective because "[c]laims 9-22 are rejected as being based upon a defective reissue declaration under 37 U.S.C. 231.

In view of the efforts recounted in the petition to obtain the signature of John Dykert, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed November 18, 2004.

This matter is being referred to Technology Center AU 1653.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at. (571) 272-3220.

Frances Hicks
Frances Hicks
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy